

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIV.

AUG 06 2020

David A. Bradley, Clerk of Court

DEMARCUS CARR  
PETITIONER  
TDCJ # 1585814

CAUSE NO. \_\_\_\_\_

v.

BRAYN COLLIER  
EX DIRECTOR TEXAS DPT  
OF CRIMINAL JUSTICE

JEFFERY RICHARDSON  
SR. WARDEN ESTELLE UNIT

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PETITIONER REQUEST FOR EMERGENCY DECLARATORY INJUNCTION FROM  
EXTREME HEAT AND HUMIDITY: EMERGENCY INJUNCTION FROM EXTREME HEAT  
SUB- CLASS ESTELLE UNIT END-STAGE RENAL INMATES

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JURISDICTION

1. THIS IS A CIVIL ACTION AUTHORIZED BY 28U.S.C. SEC.453, REQUEST  
ING THE COURT TO UPHOLD THE UNITED STATES CONSTITUTION, 8th AMEND-  
MENT, AGAINST CRUEL AND UNUSAL PUNISHMENT. PETITIONER AND SUB-  
CLASS REQUEST THIS COURT INTERVENE UNDER CODE OF COLOR AND ALL  
RIGHTS SECURED BY THE CONSTITUTION OF THE UNITED STATES. THIS  
COURT HAS JURISDICTION UNDER 28 U.S.C. SECTION 2283 & 2284 AND  
RULE 65 OF FEDERAL RULES OF CIVIL PROCEDURE..

THE SOUTHERN DISTRICT OF TEXAS IS THE APPROPRIATE VENUE, IT  
IS WHERE THE VIOLATIONS AND EVENTS GIVE RISE..

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PETITIONER

2. PETITIONER DEMARCUS CARR, ALSO REFERRED TO AS INMATE OF THE  
STATE OF TEXAS, IN CUSTODY OF (TDCJ) TEXAS DEPT OF CRIMINAL  
JUSTICE. ESTELLE UNIT HUNTSVILLE TEXAS 77320, UNDER TDCJ#  
1585814..

A SUB CLASS OF PETITIONERS, ESTELLE UNIT END-STAGE RENAL(  
DIALYSIS INMATES), APPROX. 75-125, seek emergency judicial inter-  
vention FROM EXTREME HEAT /HUMIDITY THAT PLACES THEIR LIVES IN  
IMMEDIATELY DANGER..

DEFENDANTS

3. DEFENDANT BRAYN COLLIER EX. DIRECTOR TDCJ. SR. WARDEN JEFFERY

RICHARDSON ESTELLE UNIT HUNTSVILLE TEXAS, ARE LEGALLY RESPONSIBLE FOR THE OPERATIONS AND SAFETY OF ALL ESTELLE UNIT INMATES. THEIR GRAVE INDIFFERENCE HAS PLACED PETITIONER AND ALL END STAGE RENAL INMATES EXPOSED TO EXTREME HEAT/HUMIDITY AT RISK OF INJURY AND DEATH..

### FACTS

ON JULY 1st 2020, I AS INMATE ON ESTELLE UNIT INFORMED UNIT CLASSIFICATION THAT I WAS BEING HOUSED AGAINST MY MEDICAL CONDITION, NAMELY DIALYSIS. THAT I WAS A HEAT RESTRICTED MEDICAL PATIENT, (END-STAGE RENAL). I ALSO INFORMED SR. WARDEN JEFFERY RICHARDSON THROUGH PROPER "I-60" COMMUNICATION OF BEING HOUSED IN EXTREME HEAT /HUMIDITY. I RECEIVED NO RESPONSE FROM EITHER PARTY. PETITIONER AND SUB CLASS OF END STAGE RENAL INMATES BEING HOUSED IN ESTELLE UNIT MAIN BUILDING, PLACE PETITIONER AND ALL END STAGE RENAL INMATES AT SEVERE RISK FOR INJURY AND DEATH. THE EXPOSURE TO EXTREME HEAT HAS BEEN SHOWN TO BE MISERABLE, PAINFUL, AND SEVERLY DANGEROUS AND CAN LEAD TO DEATH..

ESTELLE UNIT MAIN BUILDING HOUSING IS A LEVEL 1 HOUSING THAT HOUSES APPROX. 1500-2000 INMATES,. ESTELLE UNIT ALSO HAS A LEVEL 3 (RMF)REGIONAL MEDICAL FACILITY, AND GERIATRICS CENTER WHICH PROVIDE AIR CONDITION, AND RELIEF FROM EXTREME HEAT/HUMIDITY TO HEAT SENSITIVE INMATES, WITH MEDICAL COMORBIDITIES. ESTELLE UNIT, WHICH HOUSES NUMEROUS HEAT SENSITIVE INMATES WITH MEDICAL COMORBIDITIES AS PETITIONER AND SUB-CLASS IN NON- AIR CONDITION AREAS, PLACING PETITIONER AND ALL END STAGE RENAL INMATES AT RISK OF HARM, INJURY AND DEATH. TDCJ HAS FAILED TO PROVIDE PETITIONER AND ALL END STAGE RENAL INMATES WITH REASONABLE ACCOMMODATIONS FOR (HIS), THEIR MEDICAL CONDITIONS. THIS IS IN VIOLATION OF THE AMERICAN WITH DISABILITY ACT. (ADA) AND THE REHABILITATION ACT. (RA). PETITIONER AND ALL END STAGE RENAL INMATES, LIVING IN ESTELLE UNIT MAIN BUILDING (NON-AIR CONDITION), IS REQUESTING A DECLARATORY INJUNCTIVE JUDGEMENT AND AN EMERGENCY INJUNCTION REQUIRING DEFENDANTS TO RELOCATE PETITIONER AND ALL END STAGE RENAL INMATES EXPOSED TO EXTREME HEAT, TO A SAFE INDOOR APPARENT TEMPERATURE (eg MAINTAINING HEAT INDEX OF 88 DEGREES OR LOWER) INSIDE EACH ESTELLE UNIT HOUSING AREA, OR ENTER EMERGENCY INJUNCTION RELIEF TO SUFFICIENTLY PROTECT THE HEALTH, SAFETY AND LIVES OF PETITIONERS AND END STAGE RENAL INMATES ON ESTELLE UNIT..

IT IS WELL ESTABLISHED WITHIN HONORABLE 5th CIRCUIT THAT THE 8th AMENDMENT GUARANTEES INMATES THE RIGHT TO BE FREE FROM EXTREMELY DANGEROUS HEAT WITHOUT ADEQUATE REMEDIAL MEASURES. HINOJOSA v. LIVINGSTON 807 F3d 657-599 (5th CIR. 2015) THE 5th CIR. HAS DECIDED NUMEROUS CASES CHALLENGING HEAT ISSUES AND LEVELS IN PRISONS,. THE COURT HAS UPHOLD DISTRICT COURT FINDINGS THAT HEAT LEVELS IN PRISONS VIOLATE THE 8th AMENDMENT. 868 F3d 354 U.S. APPEAL..

PETITIONER AND ESTELLE UNIT MAIN BUILDING END STAGE RENAL INMATES, CLAIM THEIR DIALYSIS, HYPERTENSION, DIABETES, AND MEDICAL COMORBIDITIES, PLACE THEM AT A HIGH RISK OF INJURY AND DEATH. THIS RISK IS HIGHER THAN THAT OF A NON-MEDICAL INMATE.

AND MORE STRIDENT MEASURES MUST BE AFFORDED..

PETITIONER AND END STAGE RENAL INMATES IN ESTELLE UNIT MAIN BUILDING CLAIM HEAT MITIGATION IN PLACE ON ESTELLE AND IN PLACE BY TDCJ, AND MITIGATION MEASURES USED TO LOWER THE RISK TO INMATE FROM HEAT RELATED INJURIES AND DEATH, IS INADEQUATE TO END-STAGE RENAL INMATES. THESE MEASURES ARE TO ENCOURAGE INMATES TO DRINK COPIOUS AMOUNTS OF WATER, HOWEVER THE VERY NATURE OF END STAGE RENAL INMATES PREVENTS PETITIONER AND END STAGE RENAL INMATES FROM DRINKING ADDITIONAL AMOUNTS OF WATER, DUE TO RISK OF "FLUID OVERLOAD". THIS WILL LEAD TO INCREASE RISK OF HEART ATTACKS AND POSSIBLE DEATH PETITIONER AND END STAGE RENAL PATIENTS ARE UNABLE TO URINATE AND THUS CANNOT REMOVE EXCESS FLUIDS.

THE NUMBER ONE REMEDIAL MEASURE THAT CAN BE IMPLEMENTED DURING SUMMER MONTHS/EXTREME HEAT, IS DRINKING ADDITIONAL AMOUNTS OF WATER, BECAUSE HYDRATION IS THE SINGLE MOST IMPORTANT FACTOR IN PREVENTION OF HEAT RELATED INJURIES AND DEATH. TDCJ HEAT MITIGATION POLICY..

THE PETITIONER AND END STAGE RENAL PATIENTS REQUEST OF TDCJ, WHAT MITIGATION MEASURES ARE AVAILABLE TO PETITIONER AND RENAL PATIENTS DURING EXTREME HEAT. HOW CAN END STAGE PATIENTS STAY HYDRATED AND FREE FROM RISK OF INJURY AND DEATH? BY DEPARTMENT OF TDCJ POLICIES, EVEN THE SINGLE MOST IMPORTANT MITIGATION MEASURE AFFORDED INMATES IS A HEALTH RISK TO END STAGE RENAL INMATES AND CAN CAUSE INJURY AND DEATH..

ALL DIALYSIS PROVIDERS INFORM END STAGE RENAL PATIENTS TO LIMIT INTAKE OF FLUIDS TO NO MORE THAN 5 EIGHT OZ. CUPS OF TOTAL FLUID PER DAY. FLUID INCLUDES ANYTHING THAT IS LIQUID AT ROOM TEMP ..

TDCJ MITIGATION MEASURES OF "RESPITE" AREAS ARE IN NAME ONLY ON ESTELLE UNIT ON SEVERAL OCCASSIONS PETITIONER AND NUMEROUS END STAGE RENAL INMATES HAVE REQUESTED RESPITE AREAS TO RELIEVE EXTREME HEAT CONDITIONS, ONLY TO BE REBUFFED BY RANK SUCH AS CAPTAIN APPLEWHITE AND LT. WEAVER "NO RESPITE TODAY, WANT TO GO TO LOCK UP". WARDEN RICHARDSON HAS BEEN NOTIFIED AND GRIEVANCE FILED BY END STAGE RENAL INMATES..

MULTIPLE SCIENTIFIC ARTICLES HAVE SHOWN THAT DANGER POSED BY HEAT TO A POPULATION INCREASES SHARPLY WHEN HEAT INDEX EXCEEDS A THRESHOLD OF APPROX. 88 DEGREES F, IF THE BODY DOES NOT HAVE TIME TO RECOVER FROM HAZARD OF EXTREME HEAT, THE RISK OF HEAT RELATED INJURY AND DEATH INCREASES. AT LEAST 20 PLUS PRISONERS HAVE DIED IN TEXAS PRISONS SINCE 1998 IN NON-AIR CONDITION PRISONS. (TDCJ). THESE DEATHS WERE HYPERTHERMIA. PETITIONER DOES NOT HAVE INFORMATION ON HOW MANY SUCH DEATHS WERE OF END STAGE RENAL INMATES, BUT THIS CLASS IS AT A HIGHER RISK FOR INJURY AND DEATH DUE TO HYPERTHERMIA..

TDCJ IS WELL AWARE OF THE DANGERS OF EXTREME HEAT, AND THE EFFECTS ON END STAGE RENAL INMATES, BUT CONTINUE TO PLACE PETITIONER AND END STAGE RENAL PATIENTS IN EXTREME HEAT AND AT RISK. NO CORRECTIVE ACTION HAS BEEN TAKEN BY TDCJ TO MITIGATE RISK OF END STAGE RENAL INMATES..

TDCJ DOES NOT HAVE SPECIFIC POLICIES IN PLACE TO RESPOND TO EXTREME HEAT AND EFFECTS ON END-STAGE RENAL INMATES AND AS SUCH CONTINUES TO PLACE SUCH INMATES AT REAL RISK, ~~AND~~ AND LIFE IN DANGER. THUS COURT SHOULD TAKE SERIOUS CONSIDERATION FOR RELIEF TO PRE ENT PETITIONER AND END STAGE RENAL INMATES FROM GRAVE HARM.. WHAT IS REQUIRED TO FORCE TDCJ TO PROTECT END STAGE RENAL INMATES FROM EXTREME HEAT, ANOTHER DEATH?

#### EXHAUSTION OF REMEDIES

DUE TO EXTREME HEAT AND HUMIDITIES, PETITIONER AND ESTELLE UNIT MAIN BUILDING END STAGE RENAL INMATES CANNOT RISK THE NORMAL TIME FRAMES OR CHANNELS TO SEEK JUDICIAL INTERVENTION. PETITIONER AND END STAGE RENAL INMATES LIVES ARE IN DANGER TODAY. EACH DAY PETITIONER AND END STAGE RENAL INMATES ARE EXPOSED TO EXTREME HEAT INCREASES THE LIKELIHOOD OF ONE END STAGE PATIENT BEING INJURED OR DEAD..

#### LEGAL CONCLUSION

PETITIONER AND END STAGE RENAL INMATES CLAIM THAT DPT. OF CRIMINAL JUSTICE(TDCJ), IS SUBJECTING PETITIONER AND END STAGE RENAL INMATES ON THE W.J. ESTELLE UNIT, A FACILITY THAT HOUSES INMATES WITH SEVERE MEDICAL ISSUES SUCH AS DIALYSIS, TO DANGEROUS UNCONSTITUTIONAL CONDITIONS. NAMELY, PETITIONER AND END STAGE RENAL INMATES CLAIM THAT THEY ARE EXPOSED TO EXTREMELY HIGH TEMP. DURING SUMMER MONTHS, WITHOUT AIR CONDITION IN HOUSING, AND LIMITED ~~ACCESS~~ ACCESS TO AIR CONDITION ELSEWHERE. PETITIONER AND END STAGE RENAL INMATES CLAIM TDCJ USES MITIGATION MEASURES TO LOWER HEAT RELATED ISSUES, INJURIES, AND DEATH, "IS TO DRINK COPIOUS AMOUNTS OF WATER" IS INADEQUATE FOR END STAGE RENAL INMATES AND IN FACT INCREASES RISK..

THE SUPREME COURT HAS STATED THAT CONSTITUTION "DOES NOT MANDATE COMFORTABLE PRISONS"(RHODES V. CHAPMEN, 452 U.S.337,34 1981). BUT NEITHER DOES IT PERMIT INHUMANE ONES..

THE PETITIONER AND END STAGE RENAL INMATES BELIEVE THE FOUR NEEDED ELEMENTS TO ISSUE EMERGENCY INJUNCTION CAN BE ESTABLISHED TO SECURE INJUNCTION: 1. THERE IS A SUBSTANTIAL LIKELIHOOD OF SUCCESS ON THE MERITS, PETITIONERS SETTLEMENT IN COLE V. COLLIER 4:14-cv- 01698, WERE ISSUED A PRELIMINARY INJUNCTION WITH FAR LESS MEDICAL ISSUES THEN PETITIONER AND END STAGE RENAL INMATES. THERE IS A HIGHER LEVEL OF RISK ON END STAGE RENAL INMATES DUE TO EXTREME HEAT. 2. A SUBSTANTIAL HIGH THREAT OF IRREPARABLE INJURY OR DEATH IF INJUNCTION IS NOT ISSUED, THE MERE FACT THAT PETITIONER AND END STAGE RENAL INMATES CANNOT DRINK A "COPIOUS AMOUNT OF WATER," AND TDCJ HAS NO OTHER POLICY IN PLACE TO MITIGATE FACTORS FOR END STAGE RENAL INMATES, PLACES PETITIONER AND END STAGE RENAL INMATES EXPOSED TO EXTREME HEAT AT A SUBSTANTIAL HIGHER RISK FROM IRREPARABLE HARM AND DEATH. THIS RISK IS SEVERLY HIGHER THEN THE NON-MEDICAL POPULATION OF INMATES ON ESTELLE. 3. THREATEN DEATH OUTWEIGHS ANY HARM. 4. THE BURDEN OF TDCJ TO PROVIDE ADEQUATE MITIGATING MEASURES TO END STAGE RENAL INMATE TILTS THE BALANCE OF EQUITIES IN FAVOR OF PETITIONER AND END ~~END STAGE RENAL~~ INMATES, AND WILL NOT BE A DISSERVICE TO PUBLIC ~~STAGE RENAL~~

INTEREST. ESTELLE UNIT HAS LEVEL 3 MEDICAL AIR CONDITION FACILITIES THAT HOUSE ALL LEVEL OF INMATES, DIFFERENT SECURITY LEVELS. ESTELLE DEFENDANTS ARE MORE THEN ABLE AND CAPABLE OF ~~HOSTING~~ <sup>HOUSING</sup> PETITIONER AND END STAGE RENAL INMATES IN CLIMATE CONTROLLED (A.C.) FACILITY, WHERE PUBLIC INTEREST IS NOT COMPROMISED..

MOREOVER, PETITIONER AND END STAGE RENAL INMATES CLAIM DEFENDANTS HAVE DEMONSTRATED CURRENT AND ONGOING CONDUCT THAT VIOLATES STANDARDS OF DECENCY..

PRAYER FOR RELIEF

WHEREFORE, PETITIONER RESPECTFULLY PRAY THAT THIS COURT ENTERS EMERGENCY INJUNCTIVE ORDER AND JUDGEMENT:

: PETITIONER AND END STAGE RENAL INMATES LIVING IN EXTREME HEAT ESTELLE UNIT MAIN BUILDING, NO AIR CONDITION, BE IMMEDIATLY REMOVED FROM UNCONSTITUTIONAL CONDITIONS, AND RELOCATED TO HUMANE CONDITIONS, ~~BNA~~ NAMELY, AIR CONDITION ENVIROMENT, TEMP. 88 degrees f or lower..

: A PRELIMINARY INJUNCTION ORDERING DEFENDANTS TO CEASE VIOLATIONS AGAINST 8th AMENDANTS AGAINST END STAGE RENAL INMATES.

: ALL END STAGE RENAL INMATES ON ESTELLE UNIT BE AFFORDED MITIGATION MEASURES THAT REMOVE SAID INMATES FROM EXTREME HEAT AND TDCJ DEVELOP POLICY FOR MITIGATION FACTORS FOR END STAGE RENAL INMATES..

: INJUNCTIVE ORDER THAT DEFENDANTS BE PREVENTED FROM PLACING END STAGE RENAL INMATES IN UNCONSTITUTIONAL CONDITIONS, NAMELY EXTREME HEAT AFTER JUDICAL INTERVENTION ENDS..

RESPECTFULLY SUBMITTED;  
DEMARCUS CARR  
PETITIONER

END STAGE RENAL INMATES  
SUB CLASS..

AUGUST 3rd 2020

TO: DAVID J. BRADLEY  
DEPUTY CLERK  
UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS

FROM: DEMARCUS CARR  
TDCJ#1585814  
264 fm. 3478  
HUNTSVILLE TEXAS 77320

RE: MOTION FOR EMERGANCY RELIEF INJUNCTION LIFE ENDANGER EXTREME  
HEAT/HUMIDY

MR. BRADLEY:  
ENCLOSED PLEASE FIND MOTION FOR EMERGANCY RELIEF  
TO BE FILED WITH THE UNITED STATES DISTRICT COURT SOUTHERN  
DISTRICT, HOUSTON DIV.

THANK YOU FOR YOUR ASSISTANCE IN THIS MATTER..

SINCERLY;  
DEMARCUS CARR  
TDCJ# 1585814  
264 fm. 3478  
HUNTSVILLE TEXAS 77320

TO: HONORABLE COURT SOUTHERN DISTRICT OF TEXAS  
UNITED STATES FEDERAL COURT HOUSTON DIV.

FROM: DEMARCUS CARR  
TDCJ#1585814  
264 fm. 3478  
HUNTSVILLE TEXAS 77320

RE: EMERGENCY MOTION FOR INJUNCTIVE RELIEF, EXTREME TEMP.  
PETITIONER & END STAGE RENAL INMATES

HONORABLE COURT;

NOW COMES PETITIONER AND ESTELLE UNIT END-STAGE RENAL INMATES REQUESTING THAT THIS COURT HEAR MOTION FOR EMERGENCY RELIEF. PETITIONERS AND END STAGE RENAL INMATES LIVES ARE IN DANGER FROM EXPOSURE TO EXTREME HEAT AND HUMIDITY. DUE TO THE NATURE OF THE CONDITIONS, EXTREME HEAT PETITIONERS AND END STAGE RENAL INMATES ARE NOT AFFORDED NORMAL CHANNELS OF RELIEF, THE LIKELIHOOD OF INJURY AND DEATH IS HIGHLY LIKELY. PLEASE ALLOW ALL DEFERENCE AFFORDED A PRO-SE PETITIONER IN THE FILING OF THIS MOTION. IT IS WITH ALL DUE RESPECT WE ~~APPROACH~~ APPROACH THIS HONORABLE COURT..

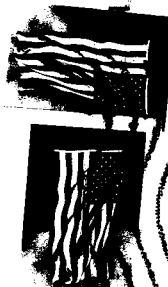
RESPECTFULLY SUBMITTED;  
DAMARCUS CARR  
PETITIONER  
TDCJ# 1585814  
264 fm. 3478  
HUNTSVILLE TEXAS 77320

END-STAGE RENAL INMATES  
ESTELLE UNIT HUNTSVILLE

DEMARCUS CARR  
TDCJ# 1585814 ESTELLE UNIT  
264fm. 3478  
HUNTSVILLE TEXAS 77320

NORTH HOUSTON TX 773

09/11



United States District Court  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIV.  
CLERK:  
PO.BOX 61010  
Houston TEXAS 77208

United States Courts  
Southern District of Texas  
FILED

AUG 16 2020

David A. Bradley, Clerk of Court

77208-101010

